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**BELLSOUTH**

BellSouth Corporation  
Suite 900  
1133-21st Street, NW  
Washington, DC 20036-3351

glenn.reynolds@bellsouth.com

**ORIGINAL**  
Glenn T. Reynolds  
Vice President -  
Federal Regulatory

202 463 4112  
Fax 202 463 4142

June 19, 2003

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JUN 19 2003

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
The Portals  
445 12<sup>th</sup> St. SW  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: CC Docket 01-17

Dear Ms. Dortch:

On June 18, 2003, Mike Harper, Don Barbour and the undersigned, representing BellSouth, met with Commission staff to discuss issues raised in the proceeding identified above. Representing the Commission at this meeting were Tamara Preiss, Lenworth Smith, Joi Nolen and Sharon Diskin. The attached documents were handed out and formed the basis for BellSouth's presentation.

Pursuant to Commission rules, please include this notice and attachments in the record of the proceeding identified above.

Sincerely,



Glenn Reynolds

cc: Tamara Preiss  
Lenworth Smith  
Joi Nolen  
Sharon Diskin

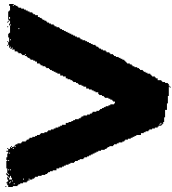
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# **BellSouth Updated Response to Thrifty Call Petition for Declaratory Ruling CCB-CPD File No. 01-17**

**Mike Harper  
June 18, 2003**

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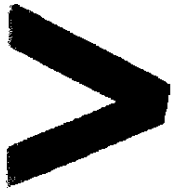
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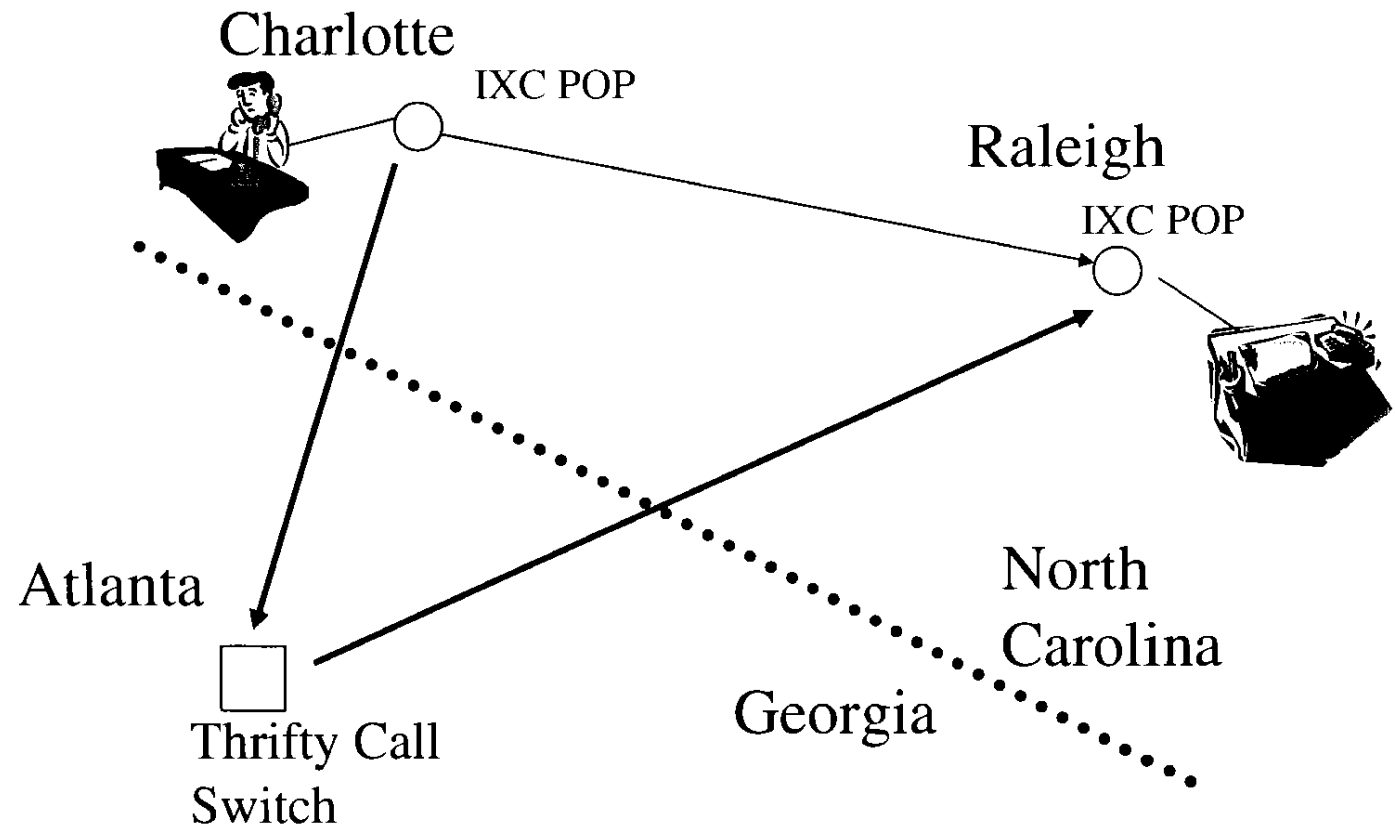
## Basis of BellSouth's Action Against Thrifty Call

- BellSouth noticed that Thrifty Call reported 100% PIU.
- BellSouth performed test calls using its Mechanized Analysis and Test Validation system (MATV). Test calls indicated that usage was intrastate, but were reported as interstate.
- BellSouth filed complaints against Thrifty Call in North Carolina (Commission ruling issued in May 2001) and in Florida (case is pending but has not been heard).
- Under a motion to compel in North Carolina, Thrifty Call produced its switch records that confirmed that essentially 100% of the calls it processed for North Carolina were intrastate calls, not interstate as Thrifty Call claimed.
- In testimony in North Carolina, Thrifty Call stated it relied on the FCC's "Entry-Exit" Order 85-145, released April 16, 1985, as the basis to assign the North Carolina traffic to interstate.
- North Carolina PSC found in favor of BellSouth on all of the issues raised in this proceeding.

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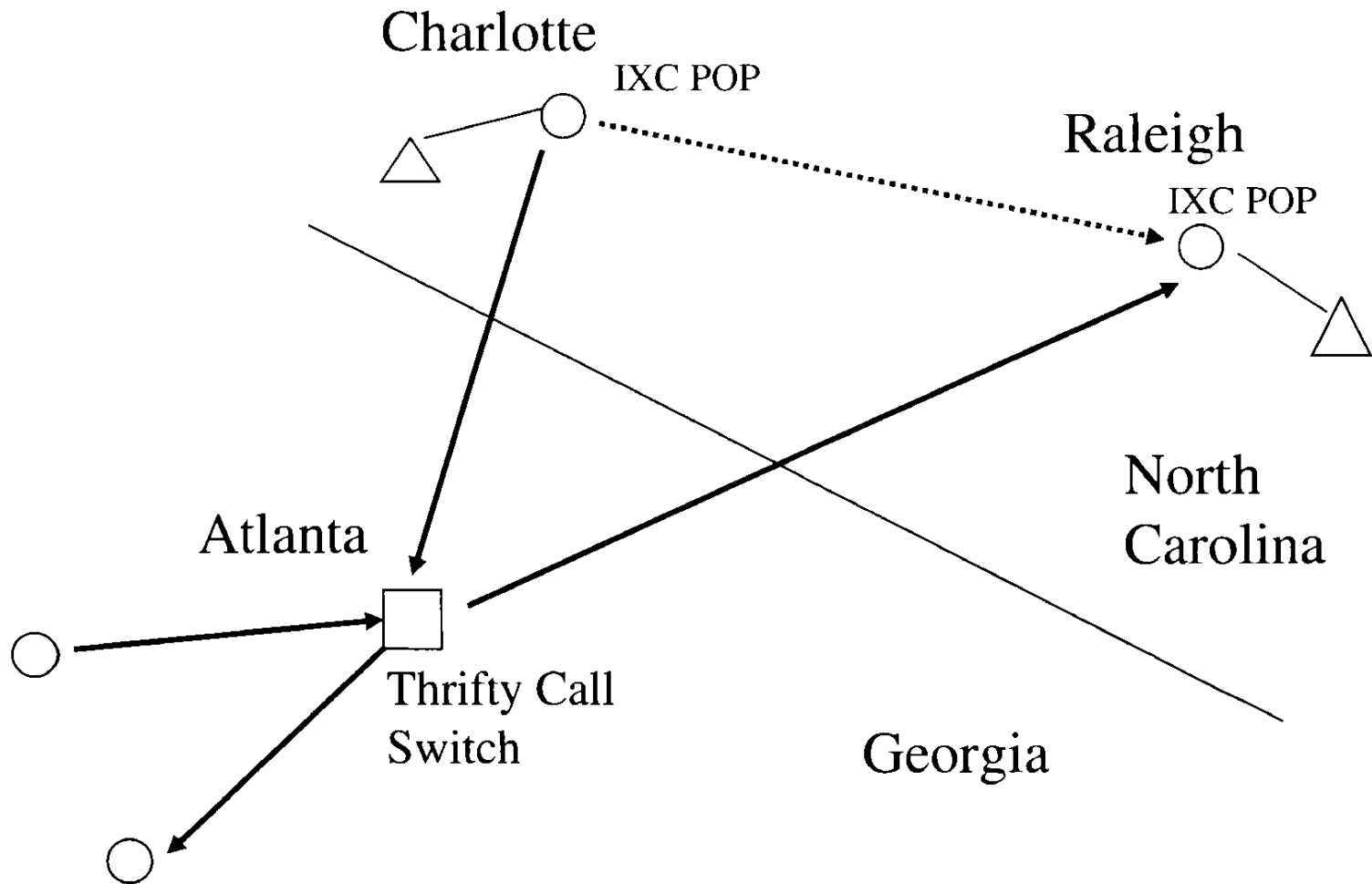


# Thrifty Call Switch Arrangement





# Thrifty Call Switch Arrangement



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## Why the “Entry-Exit” Rule is not applicable to Feature Group D Carriers

- The FCC Order establishing the “Entry-Exit” method clearly states that the “Entry-Exit” rule applies only to Feature Groups A and B. Since FGA and FGB carry no originating call information, the order provided FGA and FGB carriers with a surrogate method to determine jurisdiction at a time when the majority of IXCs were required to use FGA/FGB.
- With the implementation of equal access, however, Feature Group D is the primary access service for most carriers, including Thrifty Call. Indeed, at all times relevant to BellSouth’s complaint, Thrifty Call was purchasing FGD switched access from BellSouth.
- Since FGD access service transmits originating call information, such as ANI and calling party number (CPN), there is no longer a need for FGD carriers to rely on the “Entry-Exit” rule.



## Recommendation Regarding the “Entry-Exit” Rule

- BellSouth requests that the FCC confirm that the “Entry-Exit” jurisdictional method is not applicable to FGD carriers such as Thrifty Call, because:
  - The long-standing criteria for the assignment of the jurisdiction of a call is the identification of the two end points, e.g., the originating and terminating locations, and is not affected by the manner in which a call is routed. Both the courts and the FCC have used an “end-to-end” analysis to determine the jurisdiction of a call. Moreover, states have relied on this precedent to conclude that when a call originates and terminates in the same state, it is an intrastate call. The intermediate transport or switching does not alter the jurisdictional nature of the call even if it occurs outside the states’ boundaries. See *BellSouth Telecommunications, Inc. v. Thrifty Call, Inc.*, Docket No. P-447, Sub 5, (North Carolina Utilities Commission 2001) and *Northwest Telco, Inc. v. Mountain States Telephone and Telegraph Co.*, 88 Pub. Util. Rep. (PUR) 4<sup>th</sup> 462 (Idaho Pub. Util. Commission 1987).



## Recommendation Regarding the “Entry-Exit” Rule (Continued)

- BellSouth has identified numerous carriers, including Thrifty Call, that misrepresent the jurisdiction of calls in order to pay a lower than appropriate access rate.
  - Of the approximate three hundred IXC and CLECs terminating traffic to BellSouth, at least 30 percent report terminating PIU factors that differ significantly from information available to BellSouth.
  - Of those carriers, BellSouth has filed retroactive claims with approximately 15 carriers, first directly with the carrier, then with state commissions if no resolution is reached.
  - As a result of carrier misreporting of usage factors, BellSouth has underbilled carriers in excess of \$100M in intrastate terminating switched access revenue since 2000.
- Many of those carriers, including Thrifty Call, delete originating call detail from the call record in an attempt to disguise the misclassification of traffic sent to BellSouth.
- A number of those carriers, again including Thrifty Call, cite the “Entry-Exit” Order as the rationale to assign the originating location of the call as where it enters the carrier’s network, disregarding the originating caller’s location.





## Must BellSouth Audit PIU Factors?

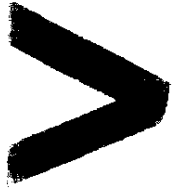
- Thrifty Call maintains that BellSouth should have conducted an audit of PIU factors prior to seeking any other form of relief.
- BellSouth's tariff specifically states that BellSouth may conduct an audit. In other words, an audit is permissive, not mandatory. In both states where this issue has been raised (Florida and North Carolina), the Commissions agreed that an audit is one option that may be employed, but is not mandatory.
- It would be unreasonable to expect BellSouth to conduct an audit of PIU factors in all cases. For example, a simple phone call to a carrier may resolve a PIU discrepancy.
- BellSouth's tariffs contain audit language in order to set out conditions to be followed in the event an audit is performed. The audit language is not intended to imply that other methods are not applicable.
- Evidence in state proceedings has validated BellSouth's determination that Thrifty Call misreported its PIU factors.

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## Is BellSouth Limited by Records Retention Guidelines?

- BellSouth's six-month retention policy in FCC Tariff No. 1 does not preclude BellSouth from collecting retroactive adjustments beyond six months.
- Attempts to collect appropriate tariffed charges on a retroactive basis is consistent with BellSouth's statutory obligation to collect the proper tariffed rate for switched access from all carriers (Sections 202 and 203 of the Communications Act of 1934).
- Further, by the mere establishment of a retention period, BellSouth does not waive its right to pursue a claim for lawful charges.



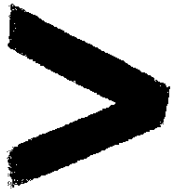
# Summary of BellSouth Recommendations

- Deny Thrifty Call's Petition for Declaratory Ruling.
- Find that the FCC's 1985 "Entry-Exit" Order is not applicable as a tool for carriers utilizing Feature Group D access to assign jurisdiction of traffic. Validate that the sole determinant of the jurisdiction of a call is the physical location of the originating and terminating points of the call and is independent of the manner in which a carrier, or carriers, may route the call.
- Find that BellSouth may conduct an audit of a carrier's PIU factors as provided in its tariffs, but that BellSouth is not required to conduct an audit.
- Find that the six-month record retention language in BellSouth's tariffs does not waive BellSouth's ability to recover appropriate retroactive, underbilled switched access revenues.



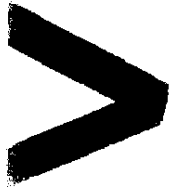
## Recent Carrier Activity

- Extensive analysis of carrier call data demonstrates that, rather than seeing a reduction of misreporting activity as a result of BellSouth's carrier traffic examinations, BellSouth notes increasing occurrences of systematic methods to disguise the jurisdiction of long distance, or access traffic.
- While prior methods generally misrepresented intrastate access traffic as interstate access, there are more widespread attempts to portray access traffic as local.
- Carriers engaging in misreporting of traffic most often cite the inability to forward Calling Party Number (CPN) or other originating information. Many of those carriers cite the FCC's 1985 "Entry-Exit" order as support for setting the origination of the call at the point where the call enters its network, rather than identifying the actual originating location of the calls.



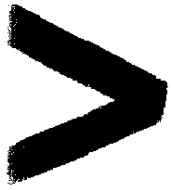
## Specific “Arbitrage” Examples

- CLECs propose alternative routing schemes to IXCs where originating IXC access traffic is diverted to a “VoIP” soft switch. The traffic is then routed to the CLEC for terminating to other ILECs, such as BellSouth, as local traffic. As part of this method, CPN is lost, or removed, and a common billing telephone number is used. **(See drawing on page 16)**
- IXCs claim that a portion of phone-to-phone traffic is routed through a “VoIP” facility, thus causing the traffic to be exempt from access charges under the FCC’s enhanced services rules.
- IXCs and certain “business customers” route access traffic over ISDN PRI facilities generating loss of CPN and causing the terminating traffic appear local.
- Providers of flat-rate calling cards order local 800 service from CLECs. Once the calls are translated to a local number and arrive at the CLEC facilities, the card purchaser enters a PIN and destination telephone number and the call is re-originated to distant points, including international calls. **(See drawing on page 17 )**



# BellSouth Traffic Monitoring

- BellSouth previously did not have call detail for traffic terminating to BellSouth from other carriers in order to validate jurisdiction reported by the carriers.
- Beginning in early 2000, BellSouth installed the Agilent Business Intelligence system. This system collects call detail for essentially all calls across BellSouth's network and stores the call detail in a centralized data site.
- From the stored data, BellSouth can now ascertain the jurisdiction of traffic from specific carriers by trunk group and state. The data is available daily.
- BellSouth has used this system since mid-2000 to identify and recover underbilled access revenue caused by misreported PIU factors that were previously self-reported by carriers.



## Importance of Calling Party Number (CPN) Data Field

- CPN is part of SS7 Message Detail unless actively deleted or altered.
- FCC Rules currently require delivery of CPN.
- High percentage of calls without CPN is an indicator of possible misclassification of calls.
- Lack of CPN devalues Caller ID-like Services.
- Other indicators of the originating point of calls, such as Automatic Number Identification (ANI) are sometimes available, but CPN is the desired source.

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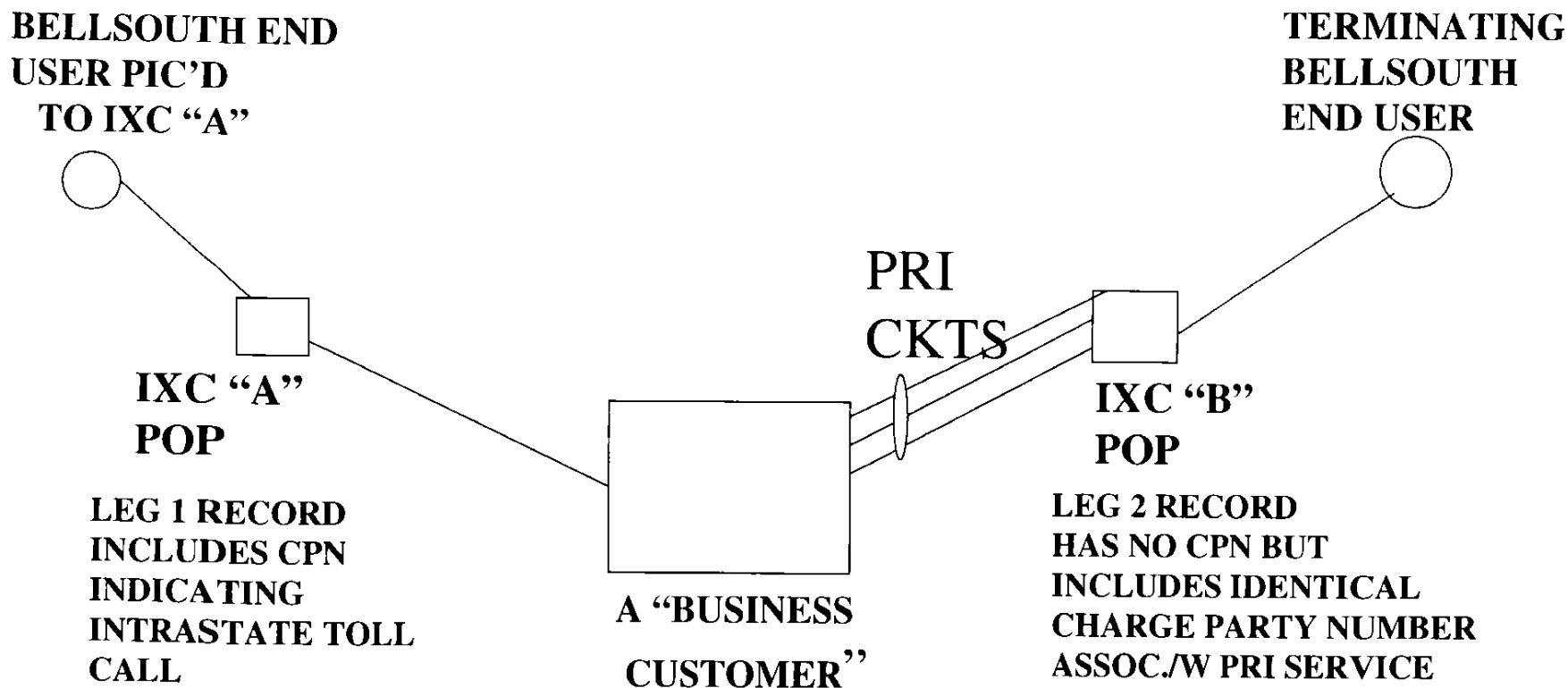
## BellSouth's Attempts to Ensure That Carriers Forward Originating Call Detail

- Part 64 of FCC rules require carriers to forward CPN whenever possible.
- Many carriers disregard this rule and neglect to forward any originating call information.
- Many times the elimination of originating call information is an attempt to disguise misreporting of traffic jurisdiction.
- BellSouth currently has an issue at the Ordering and Billing Forum (OBF) to require carriers to use the Jurisdictional Information Parameter (JIP) field on the SS7 record. This field would indicate the originating location of the call.

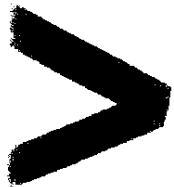




# Carrier using VoIP Switch to Terminate Traffic via PRI Facilities



**END RESULT IS THAT TOLL CALLS APPEAR AS LOCAL CALLS**

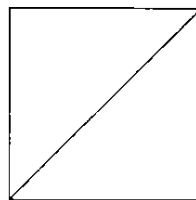


## 800/CIC110 Bypass

Call to an 800 number initiates a query to the SMS database. The routing instructions returned contain a carrier of 110 With a local number as the Translated number.



BST STP Queries SMS



BST Reciprocal TGN

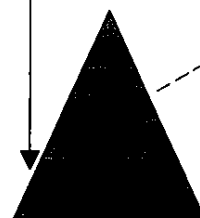


World



CLEC returns credit Card or authorization Prompt allowing Re-initiation of call

BST Reciprocal TGN



Transit Group



CLEC/ICO sends 800 call to BST for Query - result is same as for BST customer, reinitiated call routes same as BST Customer

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## SERVICE SUPPLEMENT- WSG CARRIER LOCAL TERMINATION

### SERVICE DESCRIPTION

The WSG Carrier Local Termination Offering allows customers to originate an unlimited amount of local traffic for a flat monthly recurring circuit charge, subject to the conditions outlined in this Service Supplement. The Customer has the option of selecting one of the following three circuit types:

- Carrier T1 Circuit
- Carrier SS7 T1 Circuit
- Carrier PRiority Circuit

Under each of these three circuit types, Focal will terminate all outbound calls from any DID/DOD number to the called number delivered from the Customer, regardless of whether the called number is local, intraLATA, interLATA or international, as rated by the Calling Party Number (CPN). All local calls (as defined by Focal's End-User Exchange tariffs) will be included in the flat monthly recurring circuit charge and all non-local calls will be rated at Focal's standard usage rates or the usage rate specified in the Customer's Master Service Agreement.

Directory Assistance will not be available on these circuit types.

#### Carrier T1 Circuit

The Customer is assigned a single default BTN for each trunk group established on the Carrier T1 circuit. The Calling Party Number (CPN) will default to this BTN on all calls that originate on these trunk groups, and all rating will be based on these BTNs. The Customer is solely responsible for routing traffic to the appropriate trunk group based on originating and terminating locations. If a T1 Circuit is provisioned, Caller ID at the terminating location will be unavailable.

IntraLATA toll and interLATA traffic will be blocked unless otherwise requested. Customer will be responsible for any toll charges resulting from placing non-local traffic on a trunk group.

#### Carrier SS7 T1 Circuit

The Customer is assigned multiple local DOD numbers for a single trunk group established on the Carrier SS7 T1 Circuit. When this circuit type is used, the Customer is required to deliver the local DOD number as the Calling Party Number (CPN). If the Charged Number field is delivered, the CPN must match the Charged Number. Focal will not deliver the default BTN as the CPN on these calls. If the CPN is not delivered or an invalid CPN is delivered, Focal either will rate the call based on the Charged Number or will rate the call as intraLATA toll when the Charge Number is unavailable or invalid. **Failure to deliver appropriate CPN on all calls will result in termination of this agreement.**

IntraLATA toll can not be blocked if a Carrier SS7 T1 Circuit is used. InterLATA traffic will be blocked unless otherwise requested.

#### Carrier PRiority Circuit

The Customer is assigned multiple local DOD numbers for a single trunk group established on the Carrier PRiority Circuit. When this circuit type is used, the Customer is required to deliver the local DOD number as the Calling Party Number (CPN). If the Charged Number field is delivered, the CPN must match the Charged Number. If the CPN is not delivered or an invalid CPN is delivered, Focal will rate the call based on the default BTN. **Failure to deliver appropriate CPN on all calls will result in termination of this agreement.**

IntraLATA toll can not be blocked if a Carrier PRiority Circuit is used. InterLATA traffic will be blocked unless otherwise requested. Customer will be responsible for any toll charges resulting from placing non-local traffic on a trunk group.

The Customer must represent and warrant that their CPE is NI-2 compatible. Carrier PRiority is not available to customers who do not have N1-2 equipment. In addition, Carrier PRiority is limited to 12 PRIs per overflow trunk group.

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## SERVICE SUPPLEMENT- WSG CARRIER LOCAL TERMINATION

### TERMS AND CONDITIONS

1. This offer is available as a 'stand-alone' offer in the following markets:
  - Philadelphia: Covering LATA 228 (PA and DE) and LATA 222 (Southern New Jersey)
  - Northern New Jersey: Covering LATA 224 and LATA 220 (Atlantic City)
  - Washington DC: Covering LATA 236 (DC, VA and MD)
  - Baltimore: Covering LATA 238
  - Chicago: Covering LATA 358
  - Detroit: Covering LATA 340
  - Dallas: Covering LATA 552
  - Houston: Covering LATA 560
  - San Francisco: Covering LATA 722
  - Los Angeles: Covering LATA 730
  - Seattle: Covering LATA 674

Under the 'stand-alone' offer, no minute commitments or caps are imposed. However, the Customer is required to submit a six-month forecast for each market.

2. This offer is available on local loops that comply with Focal's Mileage Limitation Guidelines, as identified in the attached Pricing Exhibit.
3. This offer is available on a one-year term only. Focal, in its sole discretion, can discontinue, at any time, the local termination service in all markets or in specific markets, upon fifteen (15) days' written notice to the Customer. In the event Focal elects to terminate the service, Focal may, in its sole discretion, offer transition service at its standard usage rates for local or toll traffic, as applicable. In the event Focal elects to terminate the service, Customer shall not be responsible for any early termination penalties. In addition, Focal, at its sole discretion, can refuse any incremental orders without notice.
4. Focal will rate usage based on the delivered CPN or the default BTN as defined in the Service Description above. The Customer is financially responsible for all usage charges associated with intraLATA toll or interLATA traffic carried by Focal.

### CUSTOMER REQUIREMENTS

The WSG Carrier Local Termination offering is available only to Customers that are certified resellers. By signing this Service Supplement, Customer warrants and represents that it is a certified reseller in all markets that are ordered under this offering.

The WSG Carrier Local Termination offering is available for Voice over IP (VoIP) traffic only. By signing this Service Supplement, Customer warrants and represents that all traffic delivered on Carrier Local Termination circuits qualify as information services as defined in the Telecommunications Act of 1996 or enhanced services as defined by the Federal Communications Commission.

### PRODUCT/PRICING TERMS

The Customer has elected to provision the following circuit type for Carrier Local Termination:

- ☐ Carrier T1
- ☐ Carrier SS7 T1
- ☐ Carrier PRiority

Pricing is based on the commitment level identified in the Master Service Agreement and the circuit type elected in this Service Supplement. See attached WSG Carrier Local Termination Pricing Attachment for rates.

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